



# Department of Justice

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## **DEPARTMENT OF JUSTICE WILL NOT CHALLENGE CONSORTIUM'S PROPOSED RADIO FREQUENCY PATENT-LICENSING ARRANGEMENT**

### ***Proposal Could Result in Greater Access to Technology and Lower Costs***

WASHINGTON — The Department of Justice announced today that it will not challenge a proposal by a consortium of companies to jointly license patents needed to comply with standards for ultra high frequency radio frequency identification (UHF RFID) technology, which has a variety of uses including airline baggage tracking, retail product inventory and ticketing for events. The Department said that the proposal could result in cost savings and greater access to the technology, ultimately benefitting competition and consumers.

UHF RFID is a type of automatic identification and data capture technology used to identify objects automatically by using radio frequency waves to transmit and read information stored in an integrated circuit or chip on a label.

The Department's position was stated in a business review letter from Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division, to counsel for the RFID Consortium LLC. The RFID Consortium is made up of a group of companies that hold at least one essential UHF RFID patent. In its letter, the Department said that the proposed arrangement appears reasonably likely to yield procompetitive benefits as it limits the ability of the consortium's members to use their intellectual property rights to block or delay the implementation of the UHF RFID standards and affords savings in transaction costs for licensors and licensees.

"The proposed patent-licensing arrangement has the potential to speed up the commercialization of UHF RFID technology, to the benefit of competition and consumers, without harming competition or impeding innovation," said Barnett.

Under the consortium's proposal, an independent licensing agent will offer nonexclusive licenses to the consortium's portfolio of essential UHF RFID patents on reasonable and nondiscriminatory terms. An independent expert reviews the patents to ensure that the portfolio does not combine patents that would otherwise compete with each other. The owners of the patents will retain the rights to license their patents independently.

In addition, the consortium intends to implement a number of safeguards that appear reasonably tailored to minimize the risk of restricting competition between producers of UHF RFID products and the dampening of incentives to innovate, the Department said.

Under the Department's business review procedure, an organization may submit a proposed action to the Antitrust Division and receive a statement as to whether the Division will challenge the action under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Antitrust Documents Group of the Antitrust Division, U.S. Department of Justice, Suite 1024, Liberty Square, 450 5<sup>th</sup> Street, NW, Washington, D.C. 20530. After a 30-day waiting period, the documents supporting the business review will be added to the file, unless a basis for their exclusion for reasons of confidentiality has been established under the Business Review Procedure.

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